

12-21-09

Dear Honorable Judge Burton Lifland,

I desire a hearing on my claim denial in BK case # 08-1789 on 3 grounds.

1. The denial is not equitable
2. The trustee misinterpreted/misunderstood the sipc code and feeder fund/BM relationship.
3. The trustee's council committed perjury.

1. Bankruptcy courts are courts of equity. If the trustee treats a claimant as if they were a direct investor then the claimant should be afforded the protections given to a direct investor.

As you know the trustee has an approx 3 billion clawback suit against Fairfield sentry fund owners (the shareholders who own the company under the BVI laws-i.e. me)

So the trustee, by suing me as an "indirect BM investor" for money, is thus treating me and other "indirect investors" as direct BM account holders for the purposes of collections. If so, the trustee must also treat me like a BM account holder for purposes of sipc protection. This is what the courts of equity were designed for.

The bankruptcy code often mandates that the decisions of the bankruptcy judge be based upon what is fair and equitable.

There is nothing fair about the court allowing the trustee to take from supposedly indirect investor's but not give anything to these same investors. The court should immediately disallow the trustee's Fairfield sentry clawbacks or allow both clawbacks and sipc protections to BM feeder fund investor/owners.

Many of these BM feeder fund owners such as myself, never took any distributions and have lost all principal investment. Why should the trustee be allowed to take \$ that belongs to feeder fund investor's with net negative gains- to give to direct BM account holders. The money from BM feeder fund investor's with net positive gains should go to net negative feeder fund investor's first- before BM direct account holders -

Once again this is not fair or equitable. First I lose all my money to Madoff and then the trustee takes away any chance I have of getting back any money from Fairfield, as the trustee will take all that money before me to give to BM direct investor's (leaving nothing left for me or other net negative feeder fund shareowners). The innocent get punished 2x.

2. usc15sec7811(2) says at the end- "the term customer is any person who has deposited cash with the debtor for the purposes of purchasing securities"

Notice that the word account or direct acct is missing in this sentence.

This sentence implies if your cash is deposited with the debtor, you have a claim whether a direct acct was established or not yet.

It is my understanding Fairfield was only a feeder of my cash to be deposited for purchasing securities at BM.

All the Fairfield marketing material I'm including implies as such.

Since Fairfield was acting as an agent of BM, this would also make me a customer of madoff entitled to protection.

As a side note-fairfield also claims sipc protection in their marketing material.(copy included)

3.Lastly if you decide that I am wrong ,after I have shown you the trustee's clawback and Fairfield marketing make me a BM customer entitled to sipc claim protection, then I ask that you charge the trustee's council with perjury .

I am including a copy of his public statements on record where he promised us (net negative feeder fund investors)money from the sipc initiated liquidation of BM.

Now he is denying this promise by denying my claim to any money due me from liquidation.

Trustee's council has caused me severe emotional harm by leading me to believe I would have sipc protection and a legitimate claim. For over the past year the council has refused to deny his statements when I emailed him. There was no need to make me wait a year to deny my claim when he knew I was taking him at his word of promised protection. This shocking and unexpected claim denial along with his unscrupulous clawback resulting in the loss of my only other source of financial injury redress ,has caused me untold pain and suffering.

Please charge him with perjury.

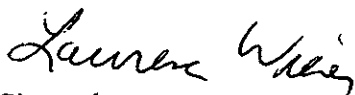
Besides the irreparable harm this emotional/financial suffering has caused me and my family ,the balance of hardship falls squarely on me-This is 100% of my retirement money. I will not be able to retire and if I can't find work my 2 young sons ages 4 and 11 will also suffer tremendously. I am an older father. I am 59 y.o.

What does the sipc/madoff liquidation fund have to lose?

Paying me 200k is less then 1/50,000 of the available funds from sipc and madoff liquidation. That's almost next to nothing.This is not a hardship for sipc/madoff liquidation fund.

Many fairfield feeder fund investor's are foreigners who worked with foreign financial agents and thus may not be entitled to sipc protection. But my situation is unique as I initially dealt with fairfield agents out of nyc who assured me madoff was in charge of my money and their literature and phone calls implied I would have sipc protection as madoff sold securities in the usa for fairfield. My money was initially wired to a new york bank.

I am entitled to sipc protection or pro rata madoff liquidation money or both ,and I have met the standard for prohibitory injunctive relief (irreparable harm and the balance of injury falling on me). If this court is to be fair and equitable then it should provide me with prohibitive injunctory relief in the form of an injunction prohibiting the denial of my claim.



Sincerely yours,
Laurence Wiener

Trustee-Pacific west health medical cntr.inc . Employee retirement acct.